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### **Chapter 18**

#### **Storm Water**

##### **Article I - General**

###### **Sec. 18-1. Purpose.**

Under the authority set forth in 24 V.S.A § 2291, specifically subsection (14), these Storm Water Regulations define what constitutes a public nuisance relating to illicit discharges, soil erosion and storm water management related to land disturbance activities. These regulations also provide procedures for the abatement or removal of such public nuisance as the public health, safety or welfare may require. This Ordinance also establishes methods for controlling the discharge of sediment, storm water and non-storm water discharges into the MS4, and/or surface or ground water in order to comply with the requirements of the National Pollutant Discharge Elimination System (NPDES) permit process, and General Permit No. 3-9014 as issued by the State of Vermont.

###### **Sec. 18-2. Applicability.**

This Ordinance shall apply to all property within the Town of Colchester, and shall apply specifically as indicated in Articles within this Ordinance.

### Sec. 18-3. Responsibility for Administration.

The Director of Public Works shall administer, implement, and enforce the provisions of this Ordinance. Any powers granted to or duties imposed upon the Director of Public Works may be delegated by the Director to persons or entities acting in the beneficial interest of or in the employ of the Town of Colchester.

### Sec. 18-4. Severability.

The provisions of this Ordinance are hereby declared to be severable. If any provision, clause, sentence, or paragraph of this Ordinance or the application thereof to any person, establishment, or circumstances shall be held invalid, it shall not affect the validity or application of other provisions of this Ordinance.

### Sec. 18-5. Relation to other Ordinances of the Town of Colchester.

If the provisions of these regulations conflict with the provisions of any other valid and enforceable Colchester Ordinance(s), the stricter shall prevail.

### Sec. 18-6. Ultimate Responsibility.

The standards set forth herein and promulgated pursuant to this Ordinance are minimum standards; therefore this Ordinance does not intend nor imply that compliance by any Person will ensure that there will be no contamination, pollution, nor unauthorized discharge or discharge of pollutants.

### Sec. 18-7. Documents Incorporated by Reference.

- A. Town of Colchester Subdivision Regulations.
- B. Town of Colchester Zoning Regulations.
- C. Town of Colchester Specifications and Standards for Construction.
- D. Vermont Storm Water Management Manual, Volumes I and II.
- E. Vermont Handbook for Soil Erosion and Sediment Control on Construction Sites.

## Chapter 18

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#### Article II - Definitions

##### Sec. 18-8. Definitions.

For the purposes of this Ordinance, the following shall mean:

*“Agent”* shall mean a person authorized to act in the place of another person.

*“Applicant”* shall mean a property owner or duly designated representative who files an application for a land disturbance activity.

*“Best Management Practices”, or, “(BMPs)”* shall mean a schedule of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce water pollution.

*“Building Inspector”* shall mean the Building Inspector for the Town of Colchester.

*“Building Permit”* shall mean a permit approved by both the Zoning Administrator and Building Inspector which authorizes any land disturbance activities in the Town of Colchester.

*“Clearing”* shall mean any activity that removes the vegetative surface cover.

*“Construction”* shall mean land-disturbing activity associated with development, including land preparation such as clearing, grading, and filling; installation of streets and walkways; excavation for basements, footings, piers, or foundations; erection of temporary forms; and installation of accessory buildings such as garages.

*“Construction Activity”* shall mean activities subject to NPDES Construction Permits. Such activities include but are not limited to clearing and grubbing, grading, excavating, and demolition.

*“Construction Season”* shall mean the period of time between May 1 and October 14 when land disturbance activities are permitted under this Ordinance.

*“Department of Public Works”* shall mean the employees or designees of the Director of Public Works.

*“Designated Enforcement Officer”* shall mean either the Town of Colchester’s Building Inspector or Health Officer, or other town officers as may be designated by the Colchester Select Board.

*“Development Review Board”* shall mean the Development Review Board for the Town of Colchester.

*“Director”* shall mean the Director of Public Works for the Town of Colchester

*“Drainage Way”* shall mean any channel that conveys surface runoff throughout the Site.

*“Erosion Control”* shall mean a measure that prevents erosion.

*“Erosion and Sediment Control Plan”* shall mean a set of plans prepared by or under the direction of a licensed professional engineer or a certified erosion control technician indicating the specific measures and sequencing to be used to control sediment and erosion on a development site during and after construction.

*“Grading”* shall mean any excavation or fill of material, including the resulting conditions thereof.

*“Hazardous Materials”* shall mean any material, including any substance, waste, or combination thereof, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

*“Illegal Discharge”* shall mean any direct or indirect non-storm water discharge to the MS4, except as exempted in Article IV of this Ordinance.

*“Illicit Connections”* shall mean any drain or conveyance, whether on the surface or subsurface, which allows an illegal discharge to enter the MS4, including but not limited to any conveyances which allow any non-storm water discharge including sewage, process wastewater, and wash water to enter the MS4, and any connections to the MS4, from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved by the Director.

*“Impervious Surface”* shall mean those surfaces that can not effectively infiltrate rainfall (e.g., building rooftops, pavement, sidewalks, driveways, etc.)

*“Industrial Activity”* shall mean activities subject to NPDES Industrial Permits as defined in 40 CFR, Section 122.26 (b) (14).

*“Infiltration Basin”* shall mean any structure or device designed to infiltrate retained water to the subsurface.

*“Land Disturbance Activities”* shall mean any land disturbance that requires a Building Permit or approval under any regulation or ordinance of the Town of Colchester that disturbs or breaks the topsoil or results in the movement of earth on land.

*“Maintenance Agreement”* shall mean a legally recorded document that acts as a property deed restriction, and which provides for long-term maintenance of storm water management practices.

*“Manager”* shall mean the Town Manager for the Town of Colchester.

*“Municipal Authority”* shall mean the Colchester Select Board.

*“Municipal Separate Storm Sewer System”, or “(MS4)”*, shall mean a conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, manmade channels, or storm drains): (i) owned or operated by the Town of Colchester that discharges to surface waters or ground water.; (ii) designed or used for collecting or conveying storm water; (iii) which is not a combined sewer; and (iv) which is not part of a Publicly Owned Treatment Works (POTW) as defined in 40 CFR, Section 122.2

*“National Pollutant Discharge Elimination System (NPDES) Storm Water Discharge Permit”* shall mean a permit issued by EPA (or by the State of Vermont under authority delegated pursuant to 33 USC § 1342(b)) that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable on an individual, group, or general area-wide basis.

*“Non-point Source Pollution”* shall mean pollution from any source other than from any discernible, confined, and discrete conveyances, and shall include, but not be limited to, pollutants from mining, construction, subsurface disposal and urban runoff sources.

*“Non-Storm Water Discharge”* shall mean any discharge to the MS4 that is not composed entirely of storm water.

*“Person”* shall mean any individual, association, organization, partnership, firm, corporation or other entity recognized by law and acting as either the owner, the owner's agent, or the operator of a premises.

*“On-site Sewage Official”* shall mean the Town’s On-site Sewage Official or their designee.

*“Pollutant”* shall mean anything which causes or contributes to pollution. Pollutants may include, but are not limited to: paints, varnishes, and solvents; oil and other automotive fluids; non-hazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects, and accumulations, so that same may cause or contribute to pollution; floatables; pesticides, herbicides, and fertilizers; hazardous substances and wastes; sewage, fecal coli form and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure; and noxious or offensive matter of any kind.

*“Premises”* shall mean any building, lot, parcel of land, or portion of land whether improved or unimproved including adjacent sidewalks and parking strips.

*“Sediment”* shall mean soil, sand, and minerals washed from land into surface waters or onto other lands.

*“Sediment Control”* shall mean measures that prevent eroded sediment from leaving the Site.

*“Septic Permit”* shall mean a State Wastewater System & Potable Water Supply Permit, or an Town Water and Wastewater Permit.

*“Site”* shall mean a parcel of land or a contiguous combination thereof, where grading work is performed as a single unified operation.

*“Site Development”* shall mean construction or alteration of the ground, improvements and structure installation.

*“Soil Erosion”* shall mean when land or soil is diminished or worn due to wind or water.

*“Stabilization”* shall mean the use of accepted practices that prevent exposed soil from eroding.

*“Start of Construction”* shall mean the first land-disturbing activity associated with a development, including land preparation such as clearing, grading, and filling; installation of streets and walkways; excavation for basements, footings, piers, or foundations; erection of temporary forms; and installation of accessory buildings such as garages.

*“Storm Water”* shall mean precipitation and snowmelt that does not infiltrate into the soil, including material dissolved or suspended in it, but does not include discharges from undisturbed natural terrain.

*“Storm Water Management”* shall mean the use of structural or non-structural practices that are designed to reduce storm water runoff pollutant loads, discharge volumes, peak flow discharge and detrimental changes in stream temperature that affect water quality and habitat.

*“Storm Water Runoff”* shall mean flow on the surface of the ground, resulting from precipitation.

*“Storm Water Treatment Practices”* shall mean measures, either structural or nonstructural, that are determined to be the most effective, practical means of preventing or reducing point source or non-point source pollution inputs to storm water runoff and water bodies.

*“Surface Waters”* shall mean any receiving waters existing on the surface of the ground, including but not limited to; brooks, streams, rivers, wetlands, ponds, or lakes.

*“Wastewater”* shall mean any water or other liquid, other than uncontaminated storm water, discharged from premises.

*“Watercourse”* shall mean any body of water, including, but not limited to lakes, ponds, rivers, streams, and bodies of water delineated by the Town of Colchester.

*“Waterway”* shall mean a channel that directs surface runoff to a watercourse or to the public storm drain.

*“Zoning Administrator”* shall mean the Zoning Administrator for the Town of Colchester.

## Chapter 18

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#### Article III - Enforcement

##### Sec. 18-9. Enforcement Remedies.

The Town, by and through its authorized agents, shall have the authority to enforce the provisions of this Ordinance, and any orders, violation notices, or enforcement orders issued hereunder, and may pursue all civil and criminal remedies in connection with any violation hereunder.

##### A. Remedies not Exclusive.

The remedies set forth herein are not exclusive of any other remedies available, including criminal prosecution, under any applicable federal, state or local law. Election of one remedy shall not preclude pursuing other remedies and nothing herein shall prohibit the Town from seeking multiple remedies.

##### B. Judicial Bureau Municipal Civil Complaint Ticket.

Pursuant to 24 V.S.A., Chapters 59 and 61 and 4 V.S.A., Chapter 29, a Designated Enforcement Officer may commence prosecution in the Judicial Bureau for any violation of this Ordinance by serving two copies of a municipal civil complaint ticket either in person or by first class mail on the alleged offender, and thereafter promptly filing the original with the Judicial Bureau. The issuing officer shall follow the procedure set forth by the Judicial Bureau for municipal complaint tickets. The first offense ticketed for a violation shall be punishable by a fine of one hundred dollars (\$100.00), the waiver fee shall be fifty dollars (\$50.00); a second offense ticketed for the same violation shall be punishable by a fine of two hundred dollars (\$200.00), the waiver fee shall be one hundred dollars (\$100.00); a third offense ticketed for the same violation shall be punishable by a fine of five hundred dollars (\$500.00), the waiver fee shall be two hundred and fifty dollars (\$250.00). Upon the fourth offense, the Town may request that the case be transferred to the Superior Court, or any other court of competent jurisdiction.

##### C. Other Enforcement Remedies Generally; Fines, Injunctive Relief.

- (1) Fines - Any person violating any of the provisions of this ordinance shall be subject to fines as outlined in Section 18-9 (B). In addition to any other penalty authorized by this section, any person, partnership, or corporation convicted of violating any of the provisions of this Ordinance shall be required to bear the expense of such restoration.
- (2) Injunctive Relief - An action, injunction, or other enforcement proceeding may be instituted by the Town to prevent, restrain, correct, or abate any violation or activity causing a violation. The relief sought may include the right to enter onto private property to



abate or correct the violation, to restrain any activity that would create further violations, or to compel a person or persons to perform abatement or remediation of the violation; and to seek damages for all costs, including reasonable attorney's fees, incurred by the Town in pursuing and obtaining such relief. In addition to any other remedies authorized in law or equity, the Town may seek an order specifically requiring:

- a.) The elimination of illicit connections and/or non-storm water discharges to the MS4;
- b.) The discontinuance of practices, activities, or operations that lead to violations of this Ordinance;
- c.) The abatement or remediation of storm water pollution or contamination hazards and the restoration of any affected property;
- d.) The implementation of source control or treatment through the use of best management practices;
- e.) The performance of monitoring, analysis, and reporting.

D. Stop Work Order; Revocation of Permit

In the event that any person holding a Building Permit approved by the Zoning Administrator, or a Septic Permit approved by the On-site Sewage Officer or their designee, for land disturbance activities, violates the terms of this Chapter or alters a site in such a manner as to adversely affect the public health, safety or welfare, the Designated Enforcement Officer may issue a Stop Work Order and/or suspend or revoke the permit.

## Chapter 18

### Storm Water

#### Article IV - Illicit Discharge and Storm Water Connection

##### Sec. 18-10. Purpose/Intent.

Under the authority set forth in 24 V.S.A § 2291, specifically subsection (14), and to provide for the public health, safety, welfare and convenience, it is hereby declared that it shall be a public nuisance for anyone to contribute pollutants, illegally connect, or illegally discharge into the Municipal Separate Storm Sewer System, (MS4), or to otherwise discharge non-storm water in violation of the requirements of this Ordinance. It is the purpose of this Article to provide procedures for the regulation of non-storm water discharges to the MS4, and where required by public health, safety, or welfare, to provide for the abatement or removal of any public nuisance related thereto. This Article establishes methods for controlling the introduction of pollutants into the MS4 in order to comply with requirements of the National Pollutant Discharge Elimination System (NPDES) permit process, and General Permit No. 3-9014 as issued by the State of Vermont. The objectives of this Article are:

- (1) To regulate the introduction of pollutants to the MS4 from non-storm water discharges by any user;
- (2) To prohibit illicit connections and illegal discharges to the MS4;
- (3) To establish legal authority to carry out all inspection, monitoring, and enforcement procedures necessary to ensure compliance with this Article.

##### Sec. 18-11. Applicability.

This Article applies to all properties within the jurisdictional area of this Ordinance.

##### Sec. 18-12. Prohibitions.

###### A. Solid Waste Disposal

No person shall throw, deposit, leave, maintain, keep, or permit to be thrown, deposited, left, or maintained, in or upon any premise, public or private property, driveway, parking area, street, alley, sidewalk, component of the MS4, or any surface water of Colchester, any object or material, including but not limited to; refuse, rubbish, garbage, animal waste, litter, yard waste, or other discarded or abandoned objects, articles, and accumulations, so that the same may cause or contribute to pollution, or interfere with the operation, maintenance and access to the MS4.

Wastes deposited in streets in proper waste receptacles for the purposes of collection are exempted from this prohibition.

## B. Illicit Connections

- (1) The construction, use, maintenance or continued existence of illicit connections to the MS4 are prohibited.
- (2) This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.

## C. Illegal Discharges

No person shall discharge or cause to be discharged into the MS4, any materials, including but not limited to pollutants or waters containing any pollutants, other than storm water, or any materials that may impede the natural flow of storm water or the functionality of the MS4.

### Sec. 18-13. Exemptions.

The commencement or continuance of any illegal discharge to the MS4 is prohibited except as described as follows:

- (1) Water line flushing or other potable water sources, landscape irrigation or lawn watering, approved stream flow diversions, rising ground water, ground water infiltration to storm drains, uncontaminated pumped ground water, foundation or footing drains (not including active groundwater dewatering systems), crawl space pumps, air conditioning condensation, springs, non-commercial washing of vehicles, natural riparian habitat or wetland flows, swimming pool draining (if dechlorinated - typically less than one PPM chlorine), fire fighting activities, and any other water source not containing Pollutants.
- (2) Discharges specified in writing by the Director as being necessary to protect public health and safety.
- (3) Dye testing is an allowable discharge, but requires a verbal notification to the Department of Public Works prior to the time of the test.
- (4) The prohibition shall not apply to any non-storm water discharge permitted under an NPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the Federal Environmental Protection Agency, provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided that written approval has been granted for any discharge to the MS4 by the Director.

### Sec. 18-14. Industrial or Construction Activity Discharges.

Any person subject to an industrial or construction activity NPDES storm water discharge regulation, and/or permit shall comply with all provisions of such regulation and/or permit. Proof of compliance with said regulation and/or permit may be required in a form acceptable to the Director prior to the allowing of discharges to the MS4.

## Sec. 18-15. Monitoring of Discharges.

### A. Applicability.

This section applies to all premises that have storm water discharges associated with industrial activity, including construction activity.

### B. Access to Premises.

- (1) The Department of Public Works shall be permitted to enter and inspect any premise subject to regulation under this Article as often as may be necessary to determine compliance with this Article. If a person has security measures in force which require proper identification and clearance before entry into its premise, the person shall make the necessary arrangements to allow access to representatives of the Department of Public Works.
- (2) A person shall allow the Department of Public Works ready access to all parts of the premises for the purposes of inspection, sampling, examination and copying of records that must be kept under the conditions of an NPDES permit to discharge storm water, and the performance of any additional duties as defined by state and federal law.
- (3) The Department of Public Works shall have the right to set up on any permitted premises such devices as are necessary in the opinion of the Director to conduct monitoring and/or sampling of the premises storm water discharge.
- (4) The Director has the right to require a person to install monitoring equipment as necessary. The sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the owner or operator of the premise at their own expense. All devices used to measure storm water flow and quality shall be calibrated to ensure their accuracy. The owner or operator of the premise shall demonstrate calibration techniques and satisfactory operation of the devices to the Department of Public Works upon request.
- (5) Any temporary or permanent obstruction to safe and easy access to the premises to be inspected and/or sampled shall be promptly removed by the owner or operator of the premise at the written or oral request of the Department of Public Works and shall not be replaced. The costs of clearing such access shall be borne by the owner or operator of the premise.
- (6) Unreasonable delays in allowing the Department of Public Works access to permitted premises are a violation of this Article. A person who is the operator of a premise with a NPDES permit to discharge storm water associated with industrial activity commits an offense if the person denies the Department of Public Works reasonable access to the permitted premises for the purpose of conducting any activity authorized or required by this Article.
- (7) If the Department of Public Works has been refused access to any part of the premises from which storm water is discharged, and he/she is able to demonstrate probable cause to believe that there may be a violation of this Article, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program designed to verify compliance with this Article or any order issued hereunder, or to protect the overall public health, safety, and

welfare of the community, then the Director may seek issuance of a search warrant from any court of competent jurisdiction.

Sec. 18-16. Requirement to Prevent, Control, and Reduce Storm Water Pollutants by the use of Best Management Practices.

The owner or operator of a commercial or industrial establishment shall provide, at their own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the MS4 through the use of structural and non-structural BMPs.

Further, any person responsible for a property or premise, which is, or may be, the source of an illicit discharge, may be required to implement, at said person's expense, additional structural and non-structural BMPs to prevent the further discharge of pollutants to the MS4. Compliance with all terms and conditions of a valid NPDES permit authorizing the discharge of storm water associated with industrial activity, to the extent practicable, shall be deemed compliance with the provisions of this section.

Sec. 18-17. Notification of Spills.

Notwithstanding other requirements of law, as soon as any person responsible for a premises or operation, or responsible for emergency response for a premises or operation has information of any known or suspected release of materials which are resulting or may result in illegal discharges or pollutants discharging into the MS4, said person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of such a release of hazardous materials said person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a release of non-hazardous materials, said person shall notify the Department of Public Works either in person, by phone, or facsimile no later than the next business day. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the Department of Public Works within three business days of the phone notice.

If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge, steps taken to remediate said illicit discharge, and the actions taken to prevent its recurrence. Such records shall be retained on-site by the owner or operator for at least three years.

## **Chapter 18**

### **Storm Water**

#### **Article V - Erosion and Sediment Control**

##### **Sec. 18-18. Purpose/Intent.**

Under the authority set forth in 24 V.S.A. § 2291, specifically subsection (14), and to provide for the public health, safety, welfare and convenience, it is hereby declared that it shall be a public nuisance for anyone to discharge sediment into the Municipal Separate Storm Sewer System, (MS4), and/or surface waters, as a result of soil erosion caused by land disturbance activities, or to otherwise discharge sediment in violation of the requirements of this Ordinance. It is the purpose of this Ordinance to provide procedures for the regulation of sediment discharged to the MS4 and/or surface waters, and where required by public health, safety, or welfare, to provide for the abatement or removal of any public nuisance related thereto. This Ordinance establishes methods and procedures for controlling the introduction of sediment into the MS4 and/or surface waters in order to comply with the requirements of the National Pollutant Discharge Elimination System (NPDES) permit process, and General Permit No. 3-9014 as issued by the State of Vermont. The objectives of this Ordinance are:

- (1) To regulate the contribution of sediment to the MS4 and/or surface waters from soil erosion caused by land disturbance activities.
- (2) To control the design, construction, use, and maintenance of land disturbance activities.
- (3) To establish legal authority to carry out all inspection and enforcement procedures necessary to ensure compliance to this Ordinance.

##### **Sec. 18-19. Applicability of Erosion and Sediment Control.**

This Article applies to any land disturbance activities within the jurisdictional area of this Ordinance that result in less than 1 acre of clearing, grading, construction or land disturbance activity, unless otherwise exempted under Section 18-22 of this Article.

##### **Sec. 18-20. Prohibitions.**

No person required to obtain a Building Permit, Septic Permit or any other form of Town approval for land disturbance activities, shall cause, allow or permit the release of any sediment created by soil erosion resulting from these activities, to any other property, the MS4 and/or surface waters.

##### **Sec. 18-21. Permits.**

No person shall be granted a Building Permit, Septic Permit or approval for any land disturbance activities regulated under this Ordinance without the approval of an Erosion and Sediment Control Plan by the Department of Public Works or its designee.

## Sec. 18-22. Exemptions.

The discharge of any sediment from land disturbance activities approved by the Town to any other property, the MS4 and/or surface waters is prohibited except as described as follows:

- (A) Any emergency activity that is immediately necessary for the protection of life, property or natural resources.
- (B) Any nursery and/or agricultural operations as a permitted main or accessory use.

The approval of an Erosion and Sediment Control Plan for an approved land disturbing activity is not required for those projects disturbing equal to or less than 10,000 square feet.

## Sec. 18-23. Erosion and Sediment Control Requirements.

- (A) *Construction Access Route* - land disturbing activities subject to the provisions of this Ordinance shall require the installation of a stabilized temporary construction access. Construction sites regulated under this Ordinance shall have no more than one construction access route.
- (B) *Winter Shutdown*- Earthwork shall be scheduled for completion and the site stabilized no later than October 15. By the end of the growing season, perennial cover shall be established and non-vegetated protection measures installed by October 15. There shall be no land disturbance activities allowed between the dates of October 15, and April 30. A waiver of this requirement may be granted by the Director of Public Works, or his designee, following the submittal and approval of a Winter Construction Erosion Control Plan consistent with the Vermont Handbook for Soil Erosion and Sediment Control on Construction Sites.
- (C) *Stabilization of Denuded Areas* - Soil may be exposed for a maximum of 10 business days between the dates of May 1 and October 14. Denuded areas must be stabilized in conformance with this section by implementing soil covering best management practices such as, but not limited to; mulching, straw matting, plastic covering, sodding, etc. Construction shall be planned to limit the amount of exposed area, and to avoid grading activities during rainy periods. Clearing limits shall be clearly marked and kept as small as possible.
- (D) *Protection of Adjacent Properties* – All sediment from land disturbing activities shall be kept on site through the use of cover practice BMP's, structural BMP's and construction management measures. Where possible, a vegetative buffer strip shall be preserved and maintained around the site boundary. All soil stock piles on site shall be placed as far as possible from any and all drainage ways including storm drains systems and roadside ditches and swales. All soil piles on site shall also be covered with plastic or some other suitable cover practice BMP until the soil is either used or removed from the site.
- (E) *Maintenance* – All construction access routes, cover practice BMP's and structural BMP's shall be inspected weekly, and immediately following each rain event causing runoff to ensure they are functioning properly. Any maintenance that is required to ensure

the proper operation and performance of these BMP's shall be completed immediately.

#### Sec. 18-24. Erosion and Sediment Control Plan.

##### A. Review and Approval

The Department of Public Works, or its designee, will review each Erosion and Sediment Control Plan to determine its conformance with the provisions of this regulation, unless explicitly exempted within this Ordinance. Within 30 days after receiving a plan, the Department of Public Works, or its designee, shall in writing:

- (1) Approve the plan;
- (2) Approve the plan subject to such reasonable conditions as may be necessary to secure substantially the objectives of this regulation, and require that the issuance of the Building Permit or Septic Permit be subject to these conditions; or
- (3) Disapprove the plan, indicating the reason(s) and procedure for submitting a revised plan.

##### B. Plan Requirements

The Erosion and Sediment Control Plan shall prepared by or under the direction of a licensed professional engineer or a certified erosion control technician, and demonstrate conformance to the erosion and sediment control requirements contained in Section 18-23 of this Ordinance. All erosion and sediment control devices must be installed and stabilized before the start of construction. The Erosion and Sediment Control Plan shall contain both narrative and map(s) that clearly provide the following information:

- (1) *Contact Information* – The name, address, and telephone number of all persons having a legal interest in the property and the tax reference number and parcel number of the property or properties affected.
- (2) *General Description* - A general description of the project including a map identifying the location of the property and parcel boundaries.
- (3) *Natural Resources* - A map of existing on site natural resources including soil type, types and location of vegetative covering, natural drainage ways, brooks, streams, ponds, wetlands and other surface waters, including any surface waters within 300 feet from the site.
- (4) *Grading Plan* – A grading plan at a minimum scale of 1" = 40'. The grading plan shall include existing and proposed contours at maximum intervals of five feet. The grading plan shall also include the location of the temporary construction entrance and any soil stockpiles that will be maintained on the site.
- (5) *Infrastructure* - A map identifying existing infrastructure both on and adjacent to the site, including roads, driveways, culverts, drainage structures, roadside ditches, etc.



- (6) *BMP's* - A description of each of the best management practices to be used on the site, and a map identifying the locations where each of the best management practices will be installed and maintained.

#### Sec. 18-25. Design Requirements.

All erosion control practices, sediment control practices, waterway and watercourse protection practices and construction site access practices shall meet the design criteria set forth in the Vermont Handbook for Erosion Prevention and Sediment Control, latest version, the Department of Public Works Specifications and Standards, latest version, and the Colchester Zoning Regulations, latest version, and shall be adequate to prevent transportation of sediment from the site to the satisfaction of Department of Public Works. In the event of conflicting design criteria within these standards, the stricter shall prevail

#### Sec. 18-26. Access to Land Disturbance Activities.

The Department of Public Works shall be permitted to enter and inspect any land disturbance activities subject to regulation under this Article as often as may be necessary to determine compliance with this Article.

#### Sec. 18-27. Inspection Requirements.

The Department of Public Works shall make inspections as hereinafter required and either shall approve that portion of the work completed or shall notify the permittee wherein the work fails to comply with the Erosion and Sediment Control Plan as approved. To obtain inspections, the applicant or their agent shall notify the Department of Public Works at least two working days before the following:

1. Start of construction.
2. Installation of sediment and erosion control measures.
3. Completion of site clearing.
4. Completion of rough grading.
5. Completion of final grading.
6. Close of construction season.
7. Completion of final landscaping.

#### Sec. 18-28. Inspection Certifications.

In lieu of the requirements outlined in Section 18-27 of this Article, The Department of Public Works may allow or require that the applicant or their agent provide a written certification from a professionally licensed engineer, or a state certified erosion control technician, certifying compliance to the Erosion and Sediment Control Plan as approved.

The applicant or their agent shall make regular inspections of all control measures in accordance with the inspection schedule outlined on the approved Erosion and Sediment Control Plan.

## **Chapter 18**

### **Storm Water**

#### **Article VI –Storm Water Management**

##### **Sec. 18-29. Purpose/Intent.**

Under the authority set fourth in 24 V.S.A. § 2291, specifically subsection (14), and to provide for the public health, safety, welfare and convenience, it is hereby declared that it shall be a public nuisance for anyone to improperly manage storm water runoff created by land disturbance activities, or to otherwise manage storm water runoff caused by land disturbance activities in violation of the requirements of this Ordinance. It is the purpose of this Ordinance to provide procedures for the regulation of storm water runoff caused by land disturbance activities, and where required by public health, safety, or welfare, to provide for the abatement or removal of any public nuisance related thereto. This Ordinance establishes minimum storm water management requirements and controls associated with land disturbance activities in order to comply with the requirements of the National Pollutant Discharge Elimination System (NPDES) permit process, and General Permit No. 3-9014 as issued by the State of Vermont. The objectives of this Ordinance are:

- (1) To minimize increases in storm water runoff from land disturbance activities in order to reduce flooding, siltation, increases in stream temperature, and stream bank erosion and maintain the integrity of stream channels;
- (2) To minimize increases in non-point source pollution caused by storm water runoff from land disturbance activities which would otherwise degrade local water quality;
- (3) To minimize the total annual volume of surface water runoff which flows from any specific site during and following land disturbance activities to not exceed the pre-development hydrologic regime to the maximum extent practicable;
- (4) To reduce storm water runoff rates and volumes, soil erosion and non-point source pollution, through storm water treatment practices and to ensure that these management controls are properly maintained and pose no threat to public safety.
- (5) To establish legal authority to carry out all inspection and enforcement procedures necessary to ensure compliance to this Ordinance.

##### **Sec. 18-30. Applicability of Storm Water Management.**

This Article applies to any land disturbance activities within the jurisdictional area of this Ordinance that result in greater then or equal to 1 acre of clearing, grading, construction or land disturbance activity, and creates less than 1 acre of impervious surface, unless otherwise exempted under Section 18-33 of this Article.

##### **Sec. 18-31. Prohibitions.**

No person required to obtain a Building Permit or any other form of Town approval for land disturbance activities shall improperly manage storm water runoff associated with these activities, and/or fail to conform to the requirements of this Article.

#### Sec. 18-32. Permits.

No person shall be granted a Building Permit or approval for any land disturbance activities regulated under this Ordinance without the approval of a Storm Water Management Plan by the Department of Public Works or designee.

#### Sec. 18-33. Exemptions.

The following activities shall be exempt from the provisions of this Article:

- (A) Any emergency activity that is immediately necessary for the protection of life, property or natural resources.
- (B) Any nursery and/or agricultural operations as a permitted main or accessory use.
- (C) Any land disturbance activity that creates less than ½ acre of impervious surface.

#### Sec. 18-34. Storm Water Manual.

The storm water manual as referenced in this Article refers to the technical analysis and design standards specified in the Vermont Storm Water Management Manual (Volumes I and II), latest revision.

#### Sec. 18-35. Storm Water Treatment Standards.

The following storm water treatment standards may apply to land disturbance activities regulated under this Article, and where applicable, shall be applied as required and outlined in the Vermont Storm Water Management Manual, (Volumes I and II), latest revision.

- (A) Water Quality Treatment Standards
- (B) Channel Protection Treatment Standards
- (C) Groundwater Recharge Treatment Standards
- (D) Over bank Flood Protection Treatment Standards
- (E) Extreme Flood Protection Treatment Standards

#### Sec. 18-36. Storm Water Treatment Practice Design Criteria.

All storm water treatment practices shall meet the design criteria set forth in the Vermont Storm Water Management Manual, (Volumes I and II) latest version, the Department of Public Works Specifications and Standards, latest version, and the Colchester Zoning Regulations, latest version, and shall be adequate to achieve the required storm water treatment standards contained within the Vermont Storm Water Management Manual, (Volumes I and II), latest version. In the event of conflicting design criteria within these standards, the stricter shall prevail.

#### Sec. 18-37. Storm Water Management Plan.

##### A. Review and Approval

The Department of Public Works, or its designee, will review each Storm Water Management Plan to determine its conformance with the provisions of this regulation,

unless explicitly exempted within this Ordinance. Within 30 days after receiving a plan, the Department of Public Works, or its designee, shall in writing:

- (1) Approve the plan;
- (2) Approve the plan subject to such reasonable conditions as may be necessary to secure substantially the objectives of this regulation, and require that the issuance of the Building Permit be subject to these conditions; or
- (3) Disapprove the plan, indicating the reason(s) and procedure for submitting a revised plan.

B. Plan Requirements

The Storm Water Management Plan shall be prepared and signed by a licensed, professional engineer who shall verify and demonstrate conformance to the applicable water quality treatment standards and storm water management design criteria contained in this Article. The Storm Water Management Plan shall contain both narrative and map(s) that clearly provide the following information:

- (1) *Contact Information* - The name, address, and telephone number of all persons having a legal interest in the property and the tax reference number and parcel number of the property or properties affected.
- (2) *Site Plan* - A map indicating the location of existing and proposed buildings, roads, parking areas, utilities, structural storm water management and sediment control facilities. The map will also clearly show proposed land use with tabulation of total lot size in acres, percentage of surface areas to be disturbed, percentage of both existing and proposed impervious surfaces, drainage patterns, locations of utilities, limits of clearing and grading, and all easements, including those easements necessary for required maintenance of all storm water treatment practices.
- (3) *Base Map* - A 1" = 200' topographic base map of the site which extends a minimum of 100' beyond the limits of the proposed development and indicates existing surface water drainage including streams, ponds, culverts, ditches, and wetlands and current land use including all existing buildings, utilities, roads, and significant natural and manmade features not otherwise shown.
- (4) *Calculations* - Sufficient engineering analysis to show that the proposed storm water treatment practices are capable of controlling runoff from the site in compliance with this ordinance and the storm water design manual. The analysis shall also include hydrologic and hydraulic design calculations for the pre-development and post-development conditions for the design storms specified in the Public Works Specifications and Standards, herein incorporated by reference. Post-development storm water runoff flows shall be limited to equal to or less than pre-development storm water runoff flows for a minimum twenty-five year, twenty-four hour storm event.
- (5) *Soils Report* - If a storm water treatment practice depends on the hydrologic properties of soils, such as infiltration basins, then a soils report shall be submitted. The soils report

shall be based on on-site boring logs or soil pit profiles.

(6) *Maintenance and Repair Plan* – The design and planning of all storm water management facilities shall include detailed maintenance and repair procedures to ensure their continued function. These plans will identify the parts or components of a storm water management facility that needs to be maintained. The maintenance and repair plan shall also include:

- a) *A Landscape Plan* – The applicant must present a detailed plan for the management of vegetation at the site after construction is finished, including who will be responsible for the maintenance of vegetation at the site and what practices will be employed to ensure that adequate vegetation cover is preserved.
- b) *Maintenance Easements* – The applicant must ensure access to all storm water treatment practices at the site for the purpose of inspection and repair by securing all of the maintenance easements needed on a permanent basis. These easements shall be recorded in the land records before the issuance of a Building Permit and will remain in effect even with transfer of title to the property.
- c) *Maintenance Agreement* – The applicant must execute a maintenance agreement binding on all subsequent owners of land served by an on-site storm water management measure. The maintenance agreement shall be recorded in the land records before the issuance of a Building Permit and shall specify the required maintenance for all storm water treatment practices, along with a maintenance schedule specifying when and how often maintenance is performed on the storm water treatment practices.
- d) *Maintenance Records* - The applicant shall be required to maintain records that verify that all required maintenance was performed in conformance to the approved Storm Water Management Plan. The records shall be maintained for a period of three (3) years, and shall be made available to the Department of Public Works upon request.

#### Sec. 18-38. Access to Storm Water Treatment Practices.

The Department of Public Works shall be permitted to enter and inspect any land disturbance activities where storm water treatment practices are being, or have been constructed subject to regulation under this Article as often as may be necessary to determine compliance with this Article.

#### Sec. 18-39. Inspection Requirements.

The applicant must notify the Department of Public Works or their designee in advance before the start of construction. The Department of Public Works shall make regular inspections of the construction of storm water treatment practices. If any violations are found, the property owner shall be notified in writing of the nature of the violation and the required corrective actions. No additional work shall proceed until any violations are corrected and all work previously completed has received approval from the Department of Public Works.

Sec. 18-40. Inspection Certifications.

In lieu of the requirements outlined in Section 18-39 of this Article, The Department of Public Works may allow or require that the applicant or their agent provide a written certification from a professionally licensed engineer certifying compliance to the Storm Water Management Plan as approved.

Sec. 18-41. Landscaping and Stabilization Requirements.

Any area of land for which the natural vegetative cover has been either partially or wholly cleared or removed by land disturbance activities shall be revegetated within ten (10) business days from the substantial completion of such clearing and construction. The following requirements apply:

- (A) Reseeding must be done with an annual or perennial cover crop accompanied by placement of straw mulch or its equivalent of sufficient coverage to control erosion until such time as the cover crop is established over ninety (90%) of the seeded area.
- (B) Replanting with native woody and herbaceous vegetation must be accompanied by placement of straw mulch or its equivalent of sufficient coverage to control erosion until the plantings are established and are capable of controlling erosion.
- (C) Any area of revegetation must exhibit survival of a minimum of seventy-five percent (75%) of the cover crop throughout the year immediately following revegetation. Revegetation must be repeated in successive years until the minimum seventy-five percent (75%) survival for one (1) year is achieved.

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**Passed and Adopted this 28<sup>th</sup> day of March, 2006**

**Effective April 18, 2006**

**COLCHESTER SELECT BOARD**

\_\_\_\_\_  
**L. Richard Paquette**

\_\_\_\_\_  
**Edward Ploof, Jr.**

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**Marc Landry**

\_\_\_\_\_  
**Chris Conant**

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**Roger Derby**